

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**ALEXANDRIA FAYE,**  
*Individually and as Next Friend and on  
Behalf of O.F. and K.S.*

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 1:15-cv-429-HSO-JCG**

**MISSISSIPPI DEPARTMENT OF  
HUMAN SERVICES, et al.**

**DEFENDANTS**

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS [15]**

BEFORE THE COURT is the Motion to Dismiss [15] filed by Defendants Mississippi Department of Human Services ("MDHS"), Hancock County Department of Human Services ("HCDHS"), Harmony Raffeo ("Raffeo"), Tequila Hall ("Hall"), and Erica Weary ("Weary") (collectively, "Defendants").<sup>1</sup> Having reviewed the record and relevant legal authorities, the Court finds that Defendants' Motion to Dismiss [15] Plaintiff Alexandria Faye's First Amended Complaint [1-3] pursuant to Federal Rule of Civil Procedure 12(b)(6) should be granted.

On August 10, 2016, the Court entered an Order [40] granting in part Defendants' Motion to Dismiss [15], finding that Plaintiff's First Amended

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<sup>1</sup> An additional Defendant, Watch Me Grow Learning Center, Inc. ("Watch Me Grow") did not participate in briefing on the Motion to Dismiss, but has raised an affirmative defense regarding Plaintiff's failure to state a claim against it pursuant to Federal Rule of Civil Procedure 12(b)(6). Answer [10], at 2.

Complaint [1-3] failed to allege facts as to the purported wrongful conduct attributable to each Defendant sufficient to state facially plausible claims to relief pursuant to Rule 12(b)(6). The Court denied Defendants' Motion to Dismiss [15] in part and granted Plaintiff's request for leave to file a Second Amended Complaint to more clearly state which claims she was pursuing against which Defendants and to clearly allege the facts supporting those claims. Plaintiff was warned that failure to file a Second Amended Complaint by August 26, 2016, could result in the dismissal of all Plaintiff's claims. To date, Plaintiff has not filed a Second Amended Complaint.

Because Plaintiff has not filed a Second Amended Complaint in accordance with the Court's Order [40], even after being warned that failure to do so may result in dismissal of her claims, the Court finds that dismissal without prejudice is warranted.

**IT IS, THEREFORE, ORDERED AND ADJUDGED**, that Defendants' Motion to Dismiss [15] is **GRANTED**. This civil action is hereby **DISMISSED WITHOUT PREJUDICE**. A separate final judgment dismissing this civil action without prejudice will be entered pursuant to Federal Rule of Civil Procedure 58.

**SO ORDERED, AND ADJUDGED**, this the 7<sup>th</sup> day of September, 2016.

*s/ Halil Suleyman Ozerden*

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE